

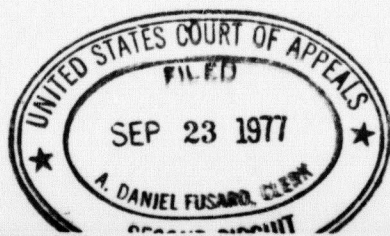
***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-2101

B



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IN FORM PAUPERIS AFFIDAVIT
FOR THE DISTRICT COURT OF CONNECTICUT IN THE
UNITED STATES DISTRICT COURT. -----

JERRY PATTIORO,

PLAINTIFF,

VS.

UNITED STATES ATTORNEY GENERAL GRIFFIN BELL,
DEPT. OF JUSTICE, WASHINGTON, D. C.

WARDEN FCI., DANBURY, CONN., GEORGE WILKINSON

HOSPITAL ADMINISTRATION, FCI., DANBURY, CONN.,
EMIL CZARNECKI,

AND

M. T. A., FCI., INMATE HOSPITAL, MR. IASH &
GILBERT.

DEFENDANTS.

AFFIDAVIT IN SUPPORT OF
REQUEST TO PROCEED IN FORMA
PAUPERIS -----

I, JERRY BATTILORO, BEING FIRST LULY SWORN, DEPOSE AND SAY THAT I AM THE PLAINTIFF IN THE ABOVE ENTITLED CASE; THAT IN SUPPORT OF MY MOTION TO PROCEED WITHOUT BEING REQUIRED TO PREPAY FEES, COSTS OR GIVE SECURITY THEREFOR, I STATE THAT BECAUSE OF MY POVERTY, I AM UNABLE TO PAY THE COSTS OF SAID PROCEEDING OR TO GIVE SECURITY THEREFOR; THAT I BELIEVE I AM ENTITLED TO RELIEF.

I FURTHER SWEAR THAT THE RESPONSE WHICH I HAVE MADE TO QUESTIONS AND INSTRUCTIONS BELOW ARE TRUE.

I HAVE NOT BEEN EMPLOYED FOR THE PAST YEAR.

OR FROM
MONEY FOR STOCKS OR BONDS.

I HAVE NOT REC'D WITHIN THE PAST TWELVE MONTHS ANY

PAYMENTS OR DIVIDENDS.

I HAVE NOT REC'D MONEY FROM ANY PROFESSION OR RENT

I HAVE NO SOURCE OF PRIVATE INCOME.

I DO NOT HAVE A BANK BOOK WITH MONIES IN IT, NOR FOR THAT MATTER A CHECKING ACC'T WITH ANY MONEY IN SAID ACC'T.

I DO NOT OWN REAL ESTATE, STOCKS, BONDS, NOTES, AUTOMOBILES, OR OTHER VALUABLE PROPERTY OTHER THEN CLOTHING WHICH ARE OUTDATED.

I UNDERSTAND THAT A FALSE STATEMENT OR ANSWER TO ANY STATEMENTS IN THIS AFFIDAVIT WILL SUBJECT ME TO PENALTIES FOR PERJURY.

Jerry Battiloro
PLAINTIFF'S SIGNATURE -----

SUBSCRIBED AND SWORN TO BEFORE ME THIS 26TH DAY OF JUNE 1977.

MR. HASSEN, FCI., DANBURY, CONN., CASEWORKER.

[Signature]

8B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

EDWIN CARL RICHARDS, JR., and
ROBERTO LAZO

VS.

Civil No. 877-0014

ERIL CZARNECKI, Hospital
Administrator, Federal
Correctional Institution,
Danbury, Connecticut, et al.

A F F I D A V I T

JERRY BATTILORO, #80870-158, being duly sworn according to law, deposes
and says:

That he is afflicted with Crohn's Disease and Regional Enteritis which
causes him extremely severe pain for which he has been prescribed injectible
Talwin and Vistril every four hours as needed for pain.

That on the afternoon of February 10, 1977, he was seen by Frank Jones,
M.D., and an "outside" consulting physician. As a result his medication was
changed to Tylenol with Codeine, tablets 2, every four hours for pain.

That at approximately 8:00 P.M., he went to the hospital where he was
seen by Robert Lash, M.T.A. He complained that he was having severe pain and
that the medication prescribed did not seem to be effective. He requested
Mr. Lash to call Dr. Jones so that his condition could be made known to the
doctor.

That Mr. Lash reported this request to Daniel Gilbert, Assistant Hospital
Administrator. Mr. Gilbert had affiant repeat his complaint and immediately
thereafter told affiant that he would not notify Dr. Jones and there was
nothing affiant could do except "suffer it through until the following day
when he could try to see Dr. Jones."

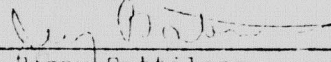
That he objected to Mr. Gilbert's not calling the doctor. That Mr. Gilbert placed his hand on affiant's shoulder and gave him a push in the direction of the hospital exit door and instructed him to leave the hospital.

That at this time, affiant, suffering from almost unbearable pain, shouted: "You bastards don't give a fuck about anyone except yourselves."

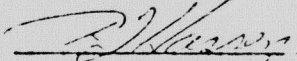
That the custodial officer, then present in the hospital, escorted affiant to the office of Correctional Supervisor Brown. After discussing his problem with Lieutenant Brown, affiant was instructed to return to the hospital.

That Mr. Gilbert again refused to contact the doctor and refused to give any other medication except the tylenol. He told affiant to either leave the hospital or else get "locked" up. Affiant refused to leave and a disciplinary report was written by M.T.A. Lash pursuant to a direct order from Mr. Gilbert.

That I declare under penalty of perjury that the foregoing statement is true and correct.


Gerry Battiloro

Subscribed and sworn to
before me this 24 day of
February, 1977.


Federal Care Manager

Noted and I shall
to administer oaths (in the presence of)

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF CONNECTICUT --

JEFFRY BATTILORO,

VS.

UNITED STATES ATTORNEY GENERAL GRIFFIN BELL,
DEPT. OF JUSTICE, WASHINGTON, D. C.

WARDEN FCI., DANBURY, CONN., GEORGE WILKINSON

HOSPITAL ADMINISTRATION, FCI., DANBURY, CONN.,
EMIL CZARNECKI,

AND

M.T.A., FCI., INMATE HOSPITAL, MR. LASH & GILBERT.

CIVIL NO.

TEMPORARY RESTRAINING ORDER

ORDER TO SHOW CAUSE FOR A PRELIMINARY INJUNCTION

UPON THE COMPLAINT, THE MOTIONS, AND THE SUPPORTING

THE AFFIDAVIT OF PLAINTIFF SUBMITTED HEREWITH, IT IS

ORDERED THAT DEFENDANTS SHOW CAUSE IN ROOM --

OF THE UNITED STATES COURTHOUSE, ON THE -- DAY OF --, 1977, AT -- O'CLOCK,
WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE PURSUANT TO RULE 65 (a) OF THE
FEDERAL RULES OF CIVIL PROCEDURE ENJOINING THE DEFENDANTS, THEIR SUCCESSORS IN
OFFICE, AGENTS AND EMPLOYEES AND ALL OTHER PERSONS ACTING IN CONCERT AND PARTICI-
PATION WITH THEM, FROM RETALITATING OR SUBJECTING PLAINTIFF TO UNWARRANTED HAR-
ASSMENT DURING THE PENDENCY OF THIS SUIT.

IT IS FURTHERED ORDERED THAT EFFECTIVE IMMEDIATELY
AND PENDING THE HEARING AND DETERMINATION OF THIS ORDER TO SHOW CAUSE, THE DEF-
ENDANTS BELL, WILKINSON, CZARNECKI, LASH AND GILBERT, AND ALL OTHER PERSONS ACT-
ING IN CONCERT OR PARTICIPATION WITH THEM ARE RESTRAINED FROM TRANSFERRING PLAIN-
tiff TO ANY OTHER INSTITUTION, WITHOUT THE PLAINTIFF'S EXPRESS CONSENT, DURING
THE PENDENCY OF THIS LAW SUIT.

IT IS FURTHER ORDERED THAT THE ORDER TO SHOW
CAUSE, AND ALL OTHER PAPERS ATTACHED TO THIS APPLICATION BE SERVED ON THE AFORE
SAID -----

UNITED STATES DISTRICT JUDGE

113

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF CONNECTICUT _ _

JERRY BATTILORO,

PLAINTIFF,

VS.

UNITED STATES ATTORNEY GENERAL, GRIFFIN BELL DEPT.
OF JUSTICE, WASHINGTON, D. C.

CIVIL NO. _ _ _ _ _

WARDEN FCI., DANBURY, CONN., GEORGE WILKINSON

HOSPITAL ADMINISTRATOR, FCI., DANBURY CONN., EMIL
CZARNECKI,

AND

M.T.A., FCI., INMATE HOSPITAL, MR. LASH & GILBERT.

DEFENDANTS.

AFFIDAVIT IN SUPPORT OF TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW CAUSE FOR A PRELIMINARY
INJUNCTION _ _ _ _ _

UNITED STATES OF AMERICA :

COUNTY OF FAIRFIELD : SS:

DISTRICT OF CONNECTICUT :

COMES NOW JERRY BATTILORO, WHO BEING DULY SWORN
ACCORDING TO LAW, DEPOSES AND SAYS:

THAT HE IS THE PLAINTIFF IN THE ABOVE TITLED
ACTION, AND THAT HE BEGAN PREPARATION OF THIS ACTION UPON HIS RELEASE FROM THE
"ADMINISTRATIVE SEGREGATION."

JURISDICTION LIES WITH THIS COURT. JURISDICTION
IS INVOKED PURSUANT TO AND IN ACCORDANCE WITH THE PROVISIONS OF 28 U. S. C 1331
AND 1361, TO REDRESS THE DEPRIVATION OF FEDERAL RIGHTS SECURED TO PLAINTIFF UNDER
THE UNITED STATES CONSTITUTION. PLAINTIFF ALSO REQUEST DECLARATORY RELIEF UNDER
28 U. S. C. 2201 AND 2202. THE MATTER IN CONTROVERSY EXCEEDS, EXCLUSIVE OF
INTERESTS AND COSTS, THE AMOUNT OF \$10,000.00.

PLAINTIFF WAS SUBJECTED TO CRUEL & UNUSUAL
PUNISHMENT IN VIOLATION OF THE EIGHTH AMEND FOR INADEQUATE TREATMENT ALONG WITH
MUCH INDIFFERENCE WHEN PLAINTIFF REPORTED ON PHYSICIANS PASS DANBURY FORM #002
FOR HIS DAILY MEDICATION AT 8 P.M. ON FEB. 10, 1977 _ _

12B

PAGE TWO

DELIBERATE INDIFFERENCE BY HOSPITAL STAFF & PRISON PERSONNEL TO PLAINTIFFS SERIOUS ILLNESS CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT CONTRAVENING THE EIGHT AMENDMENT.

DUE TO INDIFFERENCE SHOWN PLAINTIFF (SHOWN PLAINTIFF) ON FEB. 10, 1977, HE WAS MOVED TO "ADMINISTRATIVE SEGREGATION".

ON FEB. 14, 1977, PLAINTIFF WAS TAKEN BEFORE THE PRISON DISCIPLINARY COMMITTEE, APPARENTLY BECAUSE OF HIS GREAT PAIN & ATTITUDE TOWARDS M.T.A., LASH AND OUR BELOVED GILBERT WHO IS (BELIEVE IT OR NOT) THE ASSISTANT HOSPITAL ADMINISTRATOR. SEE ITEM B & BL.

WHEN THE COMMITTEE HEARD HIS COMPLAINT OF THE PAIN & THE PRESSURE PLAINTIFF WAS UNDER, IT ADDED INSULT TO INJURY AND DIRECTED THE FOLLOWING: 20 DAYS FORFEIT S.G.T., RELEASE FROM "ADMINISTRATIVE SEGREGATION". SEE ITEM B.

FOR A PERIOD OF _ _ _ DAYS PLAINTIFF WAS DENIED HIS MEDICATION AS A FORM OF PUNISHMENT, THIS IS CRUEL AND UNUSUAL PUNISHMENT. THIS IS NOT AN UNUSUAL TYPE OF PUNISHMENT HERE AT FCI., DANBURY, CT. DR. ROGOL AND DR. JONES WERE NOT AWARE OF THE MEDICATION BEING TAKEN FROM PLAINTIFF.

PLAINTIFF WAS IN ADMINISTRATIVE SEGREGATION FOR A PERIOD OF _ _ _ DAYS. PLAINTIFF IS REQUESTING THE SUM OF \$50,000.00 PER DAY IN "ADMINISTRATIVE SEGREGATION" DUE TO THE CRUEL AND UNUSUAL PUNISHMENT AS THE INDIFFERENCE AS SHOWN IN ESTELLE V. GAMBLE SUPREME COURT OF THE U. S. NO. 75 - 929 (NOV. 30, 1976).

PLAINTIFF HAS REC'D MEDICATION SINCE HE FIRST ARRIVED HERE AT FCI., DANBURY, CONN., DUE TO HIS POOR HEALTH AND THE GREAT PAIN HE SUFFERED. LETTERS FROM TWO HOSPITALS AND FIVE DOCTORS WILL FOLLOW THE PETITION. REQUESTS FROM SAID PERSONS AND HOSPITALS WERE MAILED FROM FCI., DANBURY, CONN., ON FEB. 16, 1977. DR. ROGOL, DR. JONES AND A SPECIALIZED FROM DANBURY, CONN., CAN FURNISH THIS HONORABLE COURT WITH ALL NECESSARY INFO., IN REFERENCE TO THE CONDITION OF THE PLAINTIFF. PLAINTIFF MAKES MENTION OF HIS AFFIDAVIT ENCLOSED WITH THIS PETITION AND REQUESTS THIS HONORABLE COURT TO ACCEPT ALL SAID INFO., AS TRUE FACTS WHICH DID ACCURE ON FEB. 10, 1977.

THE GRAVAMEN OF PLAINTIFF'S COMPLAINT IS THAT THE DEFENDANTS HAVE SUBJECTED HIM TO CRUEL AND UNUSUAL PUNISHMENT IN VIOLATION OF THE EIGHTH AMENDMENT, MADE APPLICABLE TO PLAINTIFF BY THE FOURTEENTH. SEE ROBINSON V. CALIFORNIA, 370 U. S. 660 (1962). I THEREFORE BASE MY EVALUATION OF PLAINTIFF'S COMPLAINT OF AMENDMENTS AND OUR DECISIONS INTERPRETING THEM. AS DID THE SUPREME COURT STATES UNITED/STATES in ESTELLE V. GAMBLE.

THE HISTORY OF THE CONSTITUTIONAL PROHIBITION OF "CRUEL AND UNUSUAL PUNISHMENTS" HAS BEEN RECOUNTED AT LENGTH IN PRIOR OPINIONS OF THE SUPREME COURT AND NEED NOT BE REPEATED NOW. SEE, e.g., GREGG V. GEORGIA, ___ U. S. ___ (1976) (PLURALITY OPINION); SEE ALSO GRANUCCI, NOR CRUEL AND UNUSUAL PUNISHMENT INFLICTED: THE ORIGINAL MEANING, 57 CAL. L. REV. 839 (1969). IT SUFFICES TO NOTE THAT THE PRIMARY CONCERN OF THE DRAFTERS WAS TO PROSCRIBE "TORTURES" AND OTHER "BARBAROUS" METHODS OF PUNISHMENT. SEE WILKERSON V. UTAH, 99 U. S. 130, 136 (1878) ("(I)T IS SAFE TO AFFIRM THAT PUNISHMENT OF TORTURE...AND ALL OTHERS IN THE SAME LINE OF UNNECESSARY CRUELTY, ARE FORBIDDEN BY THAT AMENDMENT..."); IN RE KEMMLER, 136 U. S. 436, 447 (1890) ("PUNISHMENTS ARE CRUEL WHEN THEY INVOLVE TORTURE OF A LINGERING DEATH...") IT IS VERY POSSIBLE THAT PLAINTIFFS HEART ALONG WITH HIS OTHER MEDICAL NEEDS WERE NOT RUNNING IN PROPER ORDER WHEN SAID MEDICATION WAS TAKEN FROM THE PLAINTIFF FOR THAT PERIOD OF TIME. THEREFORE, HIS LIFE WAS IN JEOPARDY.

THE SUPREME COURT MORE RECENT CASES, HOWEVER, HAVE HELD THAT THE AMENDMENT PROSCRIBES MORE THAN PHYSICALLY BARBAROUS PUNISHMENTS. SEE e. g., GREGG V. GEORGIA, SUPRA, AT ___ (PLURALITY OPINION); TROP V. DULLES, 356 U. S. 86, 100 - 101 (1958); WEEMS V. UNITED STATES, 217 U. S. 349, 373 (1910). THE AMENDMENT EMBODIES "BROAD AND IDEALISTIC CONCEPTS OF DIGNITY, CIVILIZED STANDARDS, HUMANITY, AND DECENCY...", THERE WAS NO DIGNITY WHEN PLAINTIFFS MEDICATION WAS TAKEN, THERE WERE NO CIVILIZED STANDARDS SHOWN WHEN PLAINTIFF WAS PLACED IN "ADMINISTRATIVE SEGREGATION", THERE WAS NO DIGNITY WHEN PLAINTIFF APPEARED BEFORE THE INSTITUTION DISCIPLINE COMMITTEE AND HAD 20 DAYS TAKEN. JACKSON V. BISHOP, 404 F. 2d 571, 579 (CA8 1968), AGAINST WHICH WE MUST EVALUATE FINAL MEASURES.

THUS, THE SUPREME COURT HAS HELD REPUGNANT TO THE EIGHTH AMENDMENT PUNISHMENTS WHICH ARE INCOMPATIBLE WITH "THE EVOLVING STANDARDS OF DECENCY THAT MARK THE PROGRESS OF A MATURING SOCIETY," TROP V. DULLE, supra, AT 101; SEE ALSO GREGG V. GEORGIA, supra, AT --- (PLURALITY OPINION); see ALSO LOUISIANA ex rel. FRANCIS V. RESWEBER, 329 U. S. 459, 463 (1947); WILKERSON V. ALA supra, AT 136. PLACING PLAINTIFF IN THE HOLE DUE TO WORDS EXCHANGED BETWEEN THREE MEN PROVE THAT THE WORD "DECENCY" WAS NEVER ONCE APPLIED TO PLAINTIFF.

THESE ELEMENTARY PRINCIPLES ESTABLISH THE GOV'T IS OBLIGATED TO PROVIDE MEDICAL CARE FOR THOSE WHOM IT IS PUNISHING BY INCARCERATION. PLAINTIFF MUST RELY ON PRISON AUTHORITIES TO TREAT HIS MEDICAL NEEDS; IF THE AUTHORITIES FAIL TO DO SO, THOSE NEEDS WILL NOT BE MET. IN THE WORST CASES, SUCH A FAILURE MAY ACTUALLY PRODUCE PHYSICAL "TORTURE OR A LINGERING DEATH," IN RE KEMMLER, SUPRA, THE EVILS OF MOST IMMEDIATE CONCERN TO THE DRAFTERS OF THE AMENDMENT. IN LESS SERIOUS CASES, DENIAL OF MEDICAL CARE MAY RESULT IN PAIN AND SUFFERING WHICH NO ONE SUGGESTS WOULD SERVE ANY PENOLOGICAL PURPOSE. ADMINISTRATIVE SEGREGATION WAS TORTURE AND LACK OF PROPER MEDICATION COULD CAUSE LINGERING DEATH IN THE CASE OF PLAINTIFF. I SAY IT COULD HAVE IF THE PERIOD OF TIME WAS GREATER, OR HIS NEEDS BECAME GREATER DUE TO PAIN AND STRESS. THE INFLECTION OF SUCH UNNECESSARY SUFFERING IS INCONSISTENT WITH CONTEMPORARY STANDARDS OF DECENCY AS MANIFESTED IN MODERN LEGISLATION CODIFYING THE COMMONLAW VIEW THAT "(i)T IS BUT JUST THAT THE PUBLIC BE REQUIRED TO CARE FOR THE PRISONER, WHO CANNOT, BY REASON OF THE DEPRIVATION OF HIS LIBERTY, CARE FOR HIMSELF."

I THEREFORE CONCLUDE THAT DELIBERATE INDIFFERENCE TO SERIOUS MEDICAL NEEDS OF PRISONERS CONSTITUTES THE "UNNECESSARY AND WANTON INFLECTION OF PAIN," GREGG V. GEORGIA, supra, at - - -PROSCRIBED BY THE EIGHTH AMENDMENT. THIS IS TRUE WHETHER THE INDIFFERENCE IS MANIFESTED BY PRISON DOCTORS IN THEIR RESPONSE TO THE PRISONER'S NEEDS OR BY PRISON GUARDS IN INTENTIONALLY DENYING OR DELAYING ACCESS TO MEDICAL CARE OR INTENTIONALLY INTERFERING WITH THE TREATMENT ONCE PRESCRIBED. THE UNNECESSARY AND WANTON INFLECTION OF PAIN CAME ABOUT WHEN THE M.T.A.'S., THE INSTITUTION PLACE PLAINTIFF IN SEG., AND REFUSED PLAINTIFF TO SPEAK TO A DOCTOR OR GIVE PROPER MEDICATION. AGAIN THIS IS CRUEL.

AND

PLAINTIFF STATES THAT MEDICAL MALPRACTICE DOES NOT ENTER INTO THIS CASE. WE HAVE HERE THREE DOCTORS (PHYSICIAN'S) WHO HAVE ORDERED MEDICATION FOR PLAINTIFF, AND THIS ORDER WAS REFUSED BY M.T.A., AND INSTITUTION. THEREFORE WE HAVE MEDICAL MISTREATMENT UNDER THE EIGHTH AMENDMENT

PLAINTIFF'S COMPLAINTS ARE "BASED SOLELY ON THE LACK OF PROPER MEDICAL TREATMENT, ALONG WITH INADEQUATE TREATMENT", AND BEING PLACED IN "ADMINISTRATIVE SEGREGATION", THIS TO IN PART, IS CRUEL AND UNUSUAL PUNISHMENT.

WHEREFORE, PLAINTIFF SEEKS THE SUM OF \$50,000.00 PER DAY WHEN IN "ADMINISTRATIVE SEGREGATION", AND THE SUM OF \$1,000,000.00 FOR LACK OF PROPER MEDICAL AID, OR WHATEVER THIS HONORABLE COURT SHOULD DEEM JUST & PROPER.

FOR THE PETITIONER BY:

FRANCIS D. BURRASANO
INMATE 26501
FCL., DANBURY, CONN.

DATED: JUNE 6, 1977 -----

Jerry Battison

SWORN BEFORE ME THIS 6 DAY OF

JUNE 1977. -----

D. Hassen
FCL., DANBURY, CONN.,
CASEWORKER TEAM B, MR. HASSEN

Notary Public for the State of Connecticut
My commission expires on 12/31/78

**** C E R T I F I C A T I O N ****

THIS IS TO CERTIFY THAT A COPY OF THE WITHIN AND FOREGOING WAS MAILED THIS 6TH DAY OF JUNE 1977, TO THE FOLLOWING:

1. U. S. ATTORNEY GENERAL, GRIFFIN BELL
DEPT. OF JUSTICE, WASHINGTON, D. C.
2. WARDEN FCL., DANBURY, CONN., GEORGE WILKINSON
3. HOSPITAL ADMINISTRATOR, FCL., DANBURY, CT.
EMIL CZARNECKI, AND MTA'S., IASH & GILBERT.

U. S. DEPARTMENT OF JUSTICE
BUREAU OF PRISONS
INCIDENT REPORT

1. NAME OF INSTITUTION

2. NAME OF INMATE

PART I - INCIDENT REPORT

3. REGISTER NUMBER

4. DATE OF INCIDENT

5. TIME

6. PLACE OF INCIDENT

7. ASSIGNMENT

8. QUARTERS

9. INCIDENT

(1) Insolence Towards A Staff Member (2) Conduct which disrupts

10. CODE

11. DESCRIPTION OF INCIDENT

After a brief discussion at the pharmacy window regarding Jerry's medical problem, he made a request for pain medication, which I was not able to provide. He then requested that I call Dr. Jones at home and that he was not leaving the hospital until he received what he thought was appropriate medication. I referred his request to Dr. Gillett, M.D., who talked with him for a short time and denied his requests for medical assistance. He then became very boisterous and stated "YOU ARE NOT GOING TO GET A DRUG ABOUT ANYONE EXCEPT YOURSELF". Custodial assistance was requested and he was taken from the hospital and the running of the mill line was resumed.

12. SIGNATURE OF REPORTING EMPLOYEE

13. NAME AND TITLE (PRINTED)

14. INCIDENT REPORT DELIVERED TO ABOVE INMATE BY

15. DATE INCIDENT REPORT DELIVERED

16. TIME INCIDENT REPORT DELIVERED

PART II - COMMITTEE ACTION

17. COMMENTS OF INMATE TO COMMITTEE REGARDING ABOVE INCIDENT

Personal comments to the committee as written. I believe that the committee is made up of people who are not fair. I am not a particular individual but I am a person who is in a particular situation. I am not a person who is in a particular situation.

18. IT IS THE FINDING OF THE COMMITTEE THAT: ("X" APPLICABLE BOX)

☒ YOU COMMITTED THE PROHIBITED ACT AS CHARGED

☐ YOU COMMITTED THE FOLLOWING PROHIBITED ACT:

☐ YOU DID NOT COMMIT A PROHIBITED ACT

19. COMMITTEE FINDINGS ARE BASED ON THE FOLLOWING INFORMATION

Committee findings, incident and investigation

20. COMMITTEE ACTION

21. DATE OF ACTION

CHAIRMAN

MEMBER

MEMBER

BP-15-83c
9-72

TO INMATE AFTER COMMITTEE ACTION

17B

Bureau of Prisons
INSTITUTION DISCIPLINE COMMITTEE REPORT

Attn: W-2 10-4-74
Date: 10-10-AM
Time:

NAME OF INMATE: BATTILORD, JERRY

REG. NO.

80870-75

The inmate has been advised of his rights before this Committee. ☐ A copy of the
advisement of rights form is attached.

This hearing is held to consider the Incident Report(s) dated: 2-10-77

The following persons appeared before the Committee:
Father Coyne

Summary of statements made and information presented to the Committee:

Inmate admits the charge(s): ☐ Yes ☐ No

Was on pain medication and doesn't remember exact words said.
Hospital had changed pain pills that day and they did not ease his pain.

The Committee finds that:

☐ The act was committed as charged

☐ The following act was committed:

☐ No prohibited act was committed.

(If this is the finding, this report and all related reports will be destroyed.)

Action Taken: Physical 30 days S.G.T.

Release from Admin. Detention

Reason for Action Taken:

Severity of Offense

☒ The inmate has been advised of the findings and orders of this Committee.

☒ The inmate has been advised of his right to appeal this action within 30 days to the Chief Executive Officer. ☐ A copy of this report has been given to the inmate.

(CHAIRMAN)

(MEMBER)

(MEMBER)

there is insufficient room for any item, it should be continued on an attached sheet.)

Item B18B

SAMPLE

U.S. Department of Justice
Bureau of Prisons

Attachment A
7400.5C
10-4-74

NOTICE OF INSTITUTION DISCIPLINE COMMITTEE HEARING

DATE: 2-14-77

TO: Jerry Battiloro

Reg. No.: 80870-158 B

ALLEGED VIOLATION: Insolence; Disruptive conduct

DATE OF OFFENSE: 2-10-77

Coin No.: 304 + 306

You are being referred to the Institution Discipline Committee for the above charges.

The hearing will be held on: Control Unit, at 9:00 A.M.
at the following location: 2-16-77 P.M.

You are entitled to have a full-time staff member represent you at the hearing. Please indicate below whether you desire to have a staff representative, and if so, his or her name.

I (do) X (do not) wish to have a staff representative.

If so, the staff representative's name is: Rev Coyne

You will also have the right to call witnesses at the hearing and to present documentary evidence in your behalf; provided, calling your witnesses will not jeopardize institutional safety. Names of witnesses you wish to call should be listed below. Briefly state what each proposed witness would be able to testify to:

NAME: None, Can Testify to:

NAME: , Can Testify to:

NAME: , Can Testify to:

The Chairman of the Institution Discipline Committee will call those witnesses (Staff or Inmate) who are reasonably available, and who are determined by him to be necessary for an appreciation of the circumstances surrounding the charge. Repetitive witnesses need not be called. Unavailable witnesses may be asked to submit written statements.

If additional space is needed, use the reverse side of this form. Date, sign, and return this form to the Chairman of the Institution Discipline Committee.

DATE: 2-14-77

SIGNATURE: [Signature]

BP-IS-114
9/74

B1

B-19

FEDERAL BUREAU OF PRISONS

REQUEST FOR ADMINISTRATIVE REMEDY

INSTRUCTIONS:
TYPE OR USE BALL POINT
PEN IF MORE SPACE IS
NEEDED. USE ATTACHMENT
SHEET IN QUADRUPPLICATE.

*To: X Warden of Institution
Regional Director, Bureau of Prisons

From: BATTILORO JERRY 80870 DANBURY, CONN
LAST NAME, FIRST, MIDDLE INITIAL REG NO INSTITUTION

Part A—INMATE REQUEST

WARDEN,
IN THE PAST SEVERAL DAYS, I HAVE RECEIVED TORTURES AND OTHER BARBAROUS METHODS OF PUNISHMENT. DUE TO THE LACK OF MY UNDERSTANDING OF MY HUMAN RIGHTS, I APPROACHED ONE OF THE MOST KNOWLEDGEABLE MEN ON THE COMPOUND, DOC. BURRASCANO TO ASSIST ME IN THE FOREGOING INFORMATION, AND WHATEVER MAY FOLLOW. ON FEB. 10, 77, AT APPROX. 8:10P.M., I HAD REQUESTED FROM MR. LASH THAT HE CALL DR. JONES AT HOME AND REQUEST THAT DR. PRESCRIBE THE MEDICATION I WAS RECEIVING PRIOR TO THE CHANGE MADE THAT VERY DAY? I WAS RECEIVING BY INJECTION TALWIN AND VISTRIL EVERY FOUR HOURS, RELIEF IN THE PAST WAS FELT WITH THIS MEDICATION. EARLIER THAT DAY DOCTOR JONES M.D, ASSIGNED TO THIS COMPOUND AND A OUTSIDE CONSULTING PHYSICIAN RECOMMENDED THAT MEDICATION BE CHANGED TO TYLENOL WITH CODEINE, TWO TABLETS EVERY 4 HOURS, NO RELIEF WAS FELT WITH THIS MEDICATION. MR. LASH CONSULTED WITH MR. GILBERT, ASS'T ADMINISTRATOR. IN MY OPINION THIS WAS A GREAT ERROR FOR MR. GILBERT WAS THE REASON FOR ME GOING INTO SEGREGATION. WARDEN, WHEN ONE IS IN GREAT PAIN AS MY SELF, AND HE IS TOLD THAT "HE MUST FOLLOW THRU WITH IT UNTIL THE NEXT DAY", HE SHOULD NOT BE HELD RESPONSIBLE FOR WORDS SPOKEN IN ANGER. JUST TODAY, MR. GILBERT HAD A GLASS OF WATER THROWN IN MY FACE, DUE TO HIS NASTY ATTITUDE TOWARDS INMATES SUCH AS MYSELF. EVERY DAY MR. GILBERT TAKES ENJOYMENT FROM AGGRAVATING INMATES ON SICK CALL. —CONT—ON NEXT PAGE—

Part B—RESPONSE

You were seen by Dr. Jones of our staff and also by Dr. Kayle, Internal Medical Specialist on 2/9/77. A discontinuance of your injectable pain medications, i.e. Talwin and Vistaril, was prescribed. Codeine and Tylenol were prescribed on a five day basis. On 2/10/77 you returned to the hospital at 7 a.m. complaining that Tylenol and Codeine were not helping your pain and demanded that you be restored to your original prescription of Talwin and Vistaril. Dr. Jones was contacted and directed that you be continued on Tylenol and Codeine as prescribed. Your refusal to accept these medical prescriptions and your behavior at the time resulted in your being placed in our Control Unit. Your request for expungement of the Disciplinary Report you received is denied.

3/21/77

DATE

DEPARTMENT HEAD OR REPRESENTATIVE

Investigating Officer

WARDEN, ASSOCIATE, OR REGIONAL DIRECTOR

Warden

ORIGINAL: TO BE RETURNED TO THE OFFENDER AFTER COMPLETION.

-C-

20-B

PAGE TWO, REQUEST FOR ADMINISTRATIVE REMEDY CONT-FROM PAGE ONE

FROM JERRY BATTILORO

WARDEN, I WISH TO MAKE IT VERY CLEAR THAT MR. GILBERT PUT HIS HAND ON MY SHOULDER AND PUSHED ME IN THE DIRECTION OF THE HOSPITAL EXIT AND TOLD ME TO LEAVE. AT NO GIVEN TIME DID I RAISE MY HAND AT MR. LASH OR MR. GILBERT PLEASE KEEP IN MIND THAT MR. GILBERT PLACED HIS HANDS ON MY SHOULDER, AND I WOULD HAVE BEEN JUSTIFIED IF I HAD COME TO MY OWN DEFENSE. I DO NOT DENY DUE TO MY GREAT PAIN MAKING THE FOLLOWING STATEMENT: "YOU BASTARDS DON'T GIVE A FUCK ABOUT ANYONE BUT YOURSELVES", AFTER THESE WORDS WERE SPOKEN BY ME I WAS ESCORTED TO THE OFFICE OF LT. BROWN, AFTER A BRIEF DISCUSSION WITH LT. BROWN HE RECOMMENDED THAT I RETURN TO THE HOSPITAL TO TRY AND RESOLVE MY PROBLEMS.

MR. GILBERT, AGAIN REFUSED TO CONTACT DR. JONES, AND HAD REFUSED MY REQUEST FOR CHANGE OF MEDICATION. AFTER SPEAKING WITH A FRIEND, BEING DOC. BURRASCANO, I DISCOVERED THAT THE STAFF WITHOUT THE CONSENT OF DR. JONES, COULD NOT CHANGE OR PRESCRIBE THE MEDICATION I REQUESTED. DUE TO MY GREAT PAIN, AND THE NEED FOR RELIEF: I DID REFUSE TO LEAVE THE HOSPITAL AREA. CONSEQUENTLY MR. GILBERT ORDERED MR. LASH TO WRITE A INCIDENT REPORT WHICH LEAD TO ME GOING TO SEGREGATION.

SIR, THIS CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT. WARDEN, DO YOU NOT AGREE IF I WERE GIVEN AN EXPLANATION SUCH AS THE ONE BY BURRASCANO, THIS INCIDENT WOULD HAVE NOT OCCURED. IF MR. GILBERT OR MR. LASH HAD GIVEN ME THE PROPER EXPLANATION, RATHER THAN SHOWING SO MUCH INDIFFERENCE THIS ACTION WOULD HAVE NEVER TAKEN PLACE. I HAVE BEEN TREATED WITH GREAT DISREPECT, PHYSICAL ABUSE, INDIFFERENCE AND CRUEL AND UNUSUAL PUNISHMENT. I HAVE BEEN DENIED THE 8TH AMEND., ITEMS A,B,C AND D SPEAK FOR THEMSELVES. I REQUEST THE DISCIPLINE REPORT BE RESCENDED AND THE THE REPORT BE REMOVED

A-1 21B

PAGE THREE

REQUEST FOR ADMINISTRATIVE REMEDY

FROM MY JACKET, ALSO AN APOLOGY BE GIVEN ON PAPER FROM ALL PARTIES CONCERNED. UNDER THE 8 AMEND I AM PROTECTED AGAINST INHUMAN PUNISHMENT. I HAD BEEN PLACED IN A SEGREGATION UNIT FOR REASONS WHICH ARE INFINTILE. THE 8TH AMEND EMBODIES BROAD AND IDEALISTIC CONCEPTS OF DIGNITY, CIVILIZED STANDARDS, HUMANITY AND DECENCY. IN JACKSON VS. BISHOP, "WE MUST EVALUATE PENAL MEASURES" SO TO GUARANTEE. WEEMS VS. US., INVOLVES THE UNNECESSARY PAIN. I DO NOT MAKE MENTION OR REFERENCE TO DR. ROGOL, OR DR. JONES. I ACCUSE MR. GILBERT OF INADEQUATE TREATMENT AND OF DELIBERATE INDIFFERENCE, BY USING HIS AUTHORITY IN ISSUING A DIRECT ORDER TO MR. LASH, M.T.A., SO THAT A PERSON SUCH AS MYSELF WITH SUCH A SERIOUS ILLNESS IS PLACED IN SEGREGATION. TO PLACE A PERSON SUCH AS MYSELF IN SEGREGATION CERTAINLY CONSTITUTES A DIRECT VIOLATION TO MY RIGHTS OF THE 8 AMEND, OF THE CONSTITUTION. SIR, IT IS THE OBLIGATION OF THE GOV'T TO PROVIDE AD EQUATE CARE TO AND FOR THOSE INCARCERATED, AND IN DOING SO TO HAVE QUALIFIED PERSONNEL TO DO SO. MR. GILBERT DOES NOT QUALIFY IN MY OPINION. WE THE INMATE POPULATION MUST RELY ON YOU AND YOUR STAFF TO GUARANTEE US OUR RIGHTS UNDER THE CONSTITUTION OF THE UNITED STATES. THE INFLECTION OF SUCH UNECESSARY SUFFERING IS INCONSISTANT WITH CONTEMPORARY STANDARDS OF DECENCY AS MANIFESTED IN MODERN LEGISLATION CODIFYING THE COMMON LAW VIEW THAT, "IT IS BUT JUST THAT THE PUBLIC BE REQUIRED TO CARE FOR THE PRISONER WHO CANNOT, BY REASON DEPRIVATION OF HIS LIBERTY CARE FOR HIS SELF". BEING DENIED THE CALL TO DR. JONES THAT EVENING DUE TO MY SERIOUS MEDICAL NEEDS, CERTAINLY CONSTITUTES THE UNECESSARY AND WANTON INFLECTION OF PAIN. GREGG V. GEORGIA "THE DELIBERATE INDIFFERENCE TO A ^{PRISONERS} ~~PERSONS~~ SERIOUS ILLNESS OR INJURY, STATES A COURSE OF ACTION UNDER 198. A DISMISSAL IS IN ORDER. THANK YOU, JERRY BATTELORO

02 22B

FEDERAL BUREAU OF PRISONS

REGIONAL APPEAL

RESPONSE FOR ADMINISTRATIVE REMEDY REQUEST

INSTRUCTIONS:
TYPE OR USE BALL POINT
PEN IF MORE SPACE IS
NEEDED USE ATTACHMENT
SHEET IN QUADRUPLICATE.

To: Regional Director, Bureau of Prisons

From:

Battiloro Jerry

LAST NAME FIRST, MIDDLE INITIAL

80870

REG NO

Danbury

INSTITUTION

*Part A—REASON FOR APPEAL:

Sir,
I request this phot. be
purge from my file
I am enclosing my BP 9 for
your review. I was denied
due process of law. Sir Mr.
Gilbert did place his hands on
me. (I was in great pain)

3/27/77

DATE

Jerry Battiloro

SIGNATURE OF REQUESTOR

*THE COMPLETED FORM NO. BP-DIR 9 MUST ACCOMPANY THIS APPEAL.

Part B—RESPONSE

DATE

SIGNATURE OF REGIONAL DIRECTOR

ORIGINAL: TO BE RETURNED TO OFFENDER AFTER COMPLETION.

D

23B

REQUEST FOR ADMINISTRATIVE REMEDY

PART B-RESPONSE

TO: Jerry Battiloro, Reg. No. 80870

Your Administrative Remedy Request and Regional Appeal, received on April 11, 1977, have been reviewed in this office. You are requesting expungement of a disciplinary action taken on February 16, 1977 when the Institution Discipline Committee (IDC) found you guilty of conduct which disrupts and insolence.

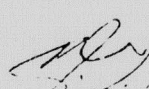
You do not deny committing the prohibited acts, but only claim they were justified by what you view as indifference toward your medical problems. The record concerning this incident and the Warden's response to your BP-2 show that staff were far from indifferent to your situation and Mr. Gilbert confirms that he went so far as to call Dr. Jones at home to determine if or not your medication should be changed. In spite of this, you continued your insolent and disruptive behavior while the pill line was in progress.

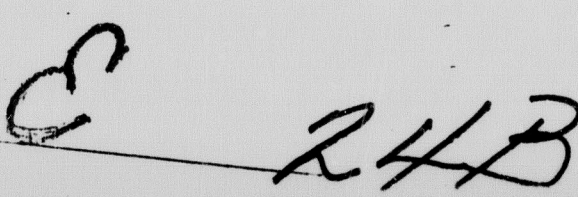
Although Mr. Gilbert placed his hand on your shoulder or arm in an effort to encourage you to leave the hospital, he did not attempt to physically force you out of the hospital and his actions could hardly be described as abusive in view of your behavior.

The record reflects that the proper procedures were followed in your case; that there was a substantial factual basis to support the findings of the IDC; and that the action imposed was not disproportionate to your offense. Your appeal is, therefore, denied.

If you are dissatisfied with this response, you may appeal to the Office of General Counsel, Washington, D.C., within 30 days of receipt of this response.

May 6, 1977
Date


Gerald M. Farkas, Regional Director



FEDERAL CORRECTIONAL INSTITUTION
DANBURY
CONNECTICUT

REQUEST FOR INTERVIEW

NAME Anttila NO. 5476 DATE 11/19/76
QUARTERS Unit 4 st B-Unit DETAIL PRD

I RESPECTFULLY REQUEST AN INTERVIEW WITH (CHECK AFTER NAME)* PLEASE PRINT*

WARDEN ☒ CHIEF C & P ☐ PROT. CHAPLAIN ☐
ASSOCIATE WARDEN ☐ EDUC. SUPVR. ☐ CATH. CHAPLAIN ☐
CHIEF CORR. SUPVR. ☐ CHIEF MED. OFF. ☐

CASEWORKER MR. _____

OTHER _____

FOR THE FOLLOWING REASON (MUST BE STATED OR REQUEST WILL BE RETURNED):

I HAVE BEEN SICK FOR THE PAST TWO MONTHS WITH A STOMACH
INTESTINAL DISORDER. I HAVE THIS CONDITION SINCE 1965. DR. FERGUSON HAS DONE
ALL HE COULD FOR ME AT THE F.C.I. HOSPITAL, BUT MY CONDITION HAS NOT
CHANGED. I AM ON PAIN ALL DAY LONG AND MUST TAKE MEDICATION TWO
THIRTS. I HAVE ASKED TO SEE AN OUTSIDE DOCTOR AT HOSPITAL FOR TESTS AND
X-RAYS, WAS TOLD THAT THE INSTITUTION DOES NOT HAVE A DOCTOR UNDER CONTRACT
THAT TREATS MY CONDITION SO I COULD NOT GO.
DETAIL AND/OR QUARTERS COMMENTS: THANK YOU
J. J. PATTISON

(detail officer must comment if request is for job change)

DATE _____ SIGNATURE _____

INTERVIEW REMARKS _____

DATE _____ SIGNATURE _____

DISPOSITION _____

F 25B

AUTHORIZATION TO RELEASE MEDICAL INFORMATION
TO JERRY BATTILORO, THIS REQUEST IS MADE BY
JERRY BATTILORO.

I JERRY BATTILORO, GIVE TO YOU DR. PAGANO MY PERMISSION TO FORWARD
TO ME ALL MY MEDICAL RECORDS WHICH YOU HAVE.

I AM IN NEED OF ALL YOUR RECORDS, DUE TO THE FACT THAT I AM FILING A PETITION
HERE AT FCI., DANBURY, CT., BEFORE THIS FEDERAL DISTRICT COURT IN NEW HAVEN, CT.
ON OR ABOUT THE 20TH DAY OF JUNE '77. (JUNE 20, 77.)

THANK YOU.

Jerry Battiloro
6/4/77

Seen to before me
6/6/77
Jerry Battiloro

R. H. Hester
Administrator

26B

I JERRY BATILORO, GIVE TO YOUR HOSPITAL THE BROOKLYN
PERMISSION TO RELEASE TO ME HERE AT FCI., DANBURY
INFO., IN REFERENCE TO MY STAY WITH YOU DURING THE PERIOD
FROM: NOV. 1967 TO JUNE 1968

PATIENT NO.
I DON'T RECALL

BIRTH DATE
NOV. 12, 1942

1776 68TH STREET
BROOKLYN, N. Y.

THANK YOU,

P. S. I AM IN NEED OF THIS INFORMATION BEFORE THE 23 DAY OF JUNE '71

27B

28B

AUTHORIZATION TO RELEASE MEDICAL INFORMATION
TO JERRY BATTILORO, THIS REQUEST IS MADE BY
JERRY BATTILORO,

I JERRY BATTILORO, GIVE TO YOU DR. PHILLIPS MY PERMISSION TO FORWARD
TO ME ALL MY MEDICAL RECORDS WHICH YOU HAVE.

I AM IN NEED OF ALL YOUR RECORDS, DUE TO THE FACT THAT I AM FILING A PETITION
HERE AT FCI., DANBURY, CT., BEFORE THIS FEDERAL DISTRICT COURT IN NEW HAVEN. CT.
ON OR ABOUT THE 20TH DAY OF JUNE '73. (JUNE 20, 77.)

THANK YOU,

Susan K. Kephling Bath
me 6/6/77

R. H. Hays

29 B

AUTHORIZATION TO RELEASE MEDICAL INFORMATION
TO JERRY BATTILORO, THIS REQUEST IS MADE BY
JERRY BATTILORO,

I JERRY BATTILORO, GIVE TO YOU DR. FRANK FAZIO MY PERMISSION TO FORWARD
TO ME ALL MY MEDICAL RECORDS WHICH YOU HAVE.
I AM IN NEED OF ALL YOUR RECORDS, DUE TO THE FACT THAT I AM FILING A PETITION
HERE AT FCI., DANBURY, CT., BEFORE THIS FEDERAL DISTRICT COURT IN NEW HAVEN, CT.
ON OR ABOUT THE 20TH DAY OF JUNE '77. (JUNE 20, 77.)

THANK YOU.

Jerry Battiloro

6/4/77

Swain to before me
6/6/77

Jerry Battiloro

R. L. Hester, Jr.
Authorized by the Federal Bureau of Investigation
to administer oaths (18 U.S.C. 3603)

30B

AUTHORIZATION TO RELEASE MEDICAL INFORMATION
TO JERRY BATTILORO, THIS REQUEST IS MADE BY
JERRY BATTILORO.

I JERRY BATTILORO, GIVE TO YOU DR. MCASPALNETTA MY PERMISSION TO FORWARD
TO ME ALL MY MEDICAL RECORDS WHICH YOU HAVE.

I AM IN NEED OF ALL YOUR RECORDS, DUE TO THE FACT THAT I AM FILING A PETITION
HERE AT FCI., DANBURY, CT., BEFORE THIS FEDERAL DISTRICT COURT IN NEW HAVEN, CT.
ON OR ABOUT THE 20TH DAY OF JUNE '77. (JUNE 20, 77.)

THANK YOU.

Jerry Battiloro
6/14/77

Given to before me
6/6/77

Jerry Battiloro

Dr. Harry McSpalnetta
Authorized by _____
Administrator (44 U.S.C. 3301)

31B

Return to:

Attiloro, Jerry

Part C—RECEIPT

LAST NAME, FIRST, MIDDLE INITIAL

80870-158

REG. NO.

FCI, Danbury
INSTITUTION

I am

lowing

complaint:

receipt this date of the above inmate's appeal from the response received from the fol-

IDC Appeal

6/6/77

DATE

Administrative Remedy # 3870

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

E. Berry

124 SETS 2810

32B

FEDERAL CORRECTIONAL INSTITUTION
DANBURY CONNECTICUT

REQUEST FOR INTERVIEW

NAME Jersey BattiloroNO. 80870DATE JUNE 7, 1977QUARTERS B-unitDETAIL REC

I RESPECTFULLY REQUEST AN INTERVIEW WITH (CHECK AFTER NAME)*PLEASE PRINT*

WARDEN	()	CHIEF C & P	()	PROT. CHAPLAIN	()
ASSOCIATE WARDEN	()	EDUC SUPVR.	()	CATH. CHAPLAIN	()
CHIEF CORR. SUPVR.	()	CHIEF MED. OFF.	()		

CASEWORKER MR.

Curry Unit Manager OTHER Team B

FOR THE FOLLOWING REASON (MUST BE STATED OR REQUEST WILL BE RETURNED):

ON June 7, 1977 at approx 4 P.M. I have requested for the fifth time that I be permitted to live in - B-P- Since the hospital is much in favor of me having my room back - Each day in the dorm is cruel - Unusual punishment Jersey Battiloro
80870

DETAIL AND/OR QUARTERS COMMENTS:

(detail officer must comment if request is for job change)

DATE

SIGNATURE

INTERVIEW REMARKS

DATE

SIGNATURE

DISPOSITION

You are second in line
for a room. Signed by
33B Mr. Curry
DB.

MICROFILM

JUL 5 1977

BRIDGEPORT

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

FILED

JUL 3 12 09 PM '77

CLERK
U.S. DISTRICT COURT
BRIDGEPORT, CONN.

JERRY BATTILORO

VS.

UNITED STATES ATTORNEY
GENERAL, ET AL

:
:
:
:
:
:

CIVIL NO. B-77-200

J U D G M E N T

THIS CAUSE CAME ON FOR CONSIDERATION ON A PETITION FOR A WRIT OF HABEAS CORPUS AND THE COURT HAVING FILED ITS MEMORANDUM OF DECISION UNDER DATE OF JULY 5, 1977, DISMISSING SAID PETITION,

IT IS ACCORDINGLY ORDERED, ADJUDGED AND DECREED THAT JUDGMENT BE AND IS HEREBY ENTERED IN FAVOR OF THE RESPONDENT AND THE PETITION FOR A WRIT OF HABEAS CORPUS IS DISMISSED.

DATED AT BRIDGEPORT, CONNECTICUT, THIS 5TH DAY OF JULY, 1977.

SYLVESTER A. MARKOWSKI, CLERK

BY

Vincent R. De Rosa

VINCENT R. DEROSA
DEPUTY IN CHARGE

FILED

JUL 3 10 28 AM '77

CLERK
U.S. DISTRICT COURT
BRIDGEPORT, CONN.

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

JERRY BATTILORO

v.

UNITED STATES ATTORNEY
GENERAL, ET AL

277-200
CIVIL NO. _____

MEMORANDUM OF DECISION

Petitioner, an inmate at Federal Correctional Institution, Danbury, complains that his Eighth Amendment rights have been violated.

The complaint arises from an incident in the prison hospital. Petitioner went to the hospital to request that his medication be changed. The hospital staff refused petitioner's request, and dispensed the medication that had been prescribed by petitioner's attending physician. Petitioner became angry and created a disturbance.

35B

After this incident, petitioner was placed in administrative segregation and was charged with insolence toward a staff member and disrupting the orderly running of the institution. Bureau of Prisons Policy Statement 7400.5D. An Institution Disciplinary Committee (IDC) found petitioner guilty of these charges and required him to forfeit twenty days statutory good time. The IDC also recommended petitioner's release from administrative segregation, where he had been confined approximately six days between the incident at the hospital and the hearing.

Petitioner does not challenge the disciplinary action. Instead his claim is that the refusal to change his prescribed treatment, along with his confinement in administrative segregation, manifested an indifference to his need for medical treatment.

Evaluation of these facts against Estelle v. Gamble, 429 U.S. 97 (1976), which governs petitioner's claim, indicates that no denial of rights has been shown. Estelle leaves no doubt that deliberate indifference to the serious medical needs of prisoners violates the Eighth Amendment. Id. at 104. The instant complaint, however, even accepting as true its allegations, does not even approach the necessary showing.

The medical staff at the prison could not modify petitioner's prescribed medication, as he requested, without the approval of his attending physician. Although the complaint and the papers submitted with it are ambiguous on this point, there is some indication that a prison staff member telephoned the attending physician at his home to discuss petitioner's medication, and the doctor confirmed his earlier prescription. However, even if no staff member took this additional step of contacting the doctor to double-check the prescription, that standard of care does not constitute deliberate indifference to petitioner's medical needs.

There is no claim that a member of the prison hospital staff refused to treat petitioner or that any prison staff member denied or delayed petitioner access to medical care or interfered with prescribed treatment. Id. at 104-105.

A disagreement between physician and patient over the most effective medication, which is essentially all petitioner alleges, does not amount to cruel and unusual punishment.

The petition is dismissed; the papers may be filed without fee.

Dated at Hartford, Connecticut, this 30 day of June, 1977.

Jon O. Newman

Jon O. Newman

United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

JERRY BATTILORO

VS.

UNITED STATES ATTORNEY GENERAL,
ET AL

:
:
: CIVIL B-77-200
:
: U. S. Court of Appeal
: Docket No. 77-2101

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U. S. Court of Appeals Docket No. 77-2101

PLAINTIFFS

BATTILORO, JERRY

DEFENDANTS

UNITED STATES ATTORNEY GENERAL;
WILKINSON, GEORGE C., Warden,
Federal Correctional Institution,
Danbury, Connecticut;
CZARNECKI, EMIL and
Mr. LASH and Mr. GILBERT

CAUSE

Petition for Writ of Habeas Corpus

ATTORNEYS

Jerry Battiloro
Federal Correctional Institution
Danbury, Ct.

Richard Blumenthal
U. S. Attorney
P.O. Box 1824
New Haven, Conn. 06508

Frank H. Santoro
Asst. U. S. Atty.

☒ CHECK
HERE
IF CASE WAS
FILED IN
FORMA
PAUPERIS

DATE

FILING FEES PAID
RECEIPT NUMBER

C.D. NUMBER

STATISTICAL CA

CARD DATE M

JS-5

JS-6

39B

DATE	NR.	PROCEEDINGS
1977 7/5		MEMORANDUM OF DECISION, entered. Petitioner complains of disagreement between physician and patient over the most effective medication, which does not amount to cruel and unusual punishment. Petition dismissed, papers may be filed w/o Newman, J. M-7./5/77. Copies to petitioner, U.S. Atty., Warden, Judges, Magis and U. Conn. Law Rev.
7/5		Petition for Writ of Habeas Corpus (T.R. O. and Affidavit in Support thereof, and request to proceed in forma pauperis, filed. Copies to U.S. Atty. and Warden.
7/5		Judgment, entered. Petition dismissed and judgment entered for respondents. Copies to petitioner, Warden, U.S. Atty.
7/27		Notice of Appeal from Judgment, filed by petitioner. Copies to petitioner, Warden and U. S. Atty.
7/28		Certified copies of Notice of Appeal and Docket Entries, along with completed Forms C and D forwarded Pro se Clerk, U. S. Court of Appeals. Copies of Forms C and D mailed petitioner, Warden and U. Atty.
8/2		Acknowledgment of receipt of copies of Notice of Appeal, etc. received from Pro se Clerk, U. S. Court of Appeals.
8/4		Petitioner's Affidavit in Support of Request to Proceed in Forma Pauperis, filed. (considered as Request)
8/9		Petitioner's Affidavit, etc., endorsed: "8/5/77 Leave to prepare and appeal in forma pauperis <u>granted</u> ." Newman, J. Copies to Warden, petitioner, Asst. U. S. Atty. Santoro and Pro se clerk, U. S. Court of Appeals. M-8/12/77
8/29		Scheduling Order of U. S. Court of Appeals, filed. (Record on Appeal due on or before September 12, 1977.)

40B